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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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K7 DESIGN GROUP, INC.,

Case No. 1:17-cv-6943

Plaintiff,

v.

REPLY TO COUNTERCLAIMS

FASHION ANGELS ENTERPRISES, INC.
and MARK MILLER,

Defendants.

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Plaintiff K7 Design Group, Inc. (“Plaintiff”), by and through its attorneys, Goldberg Segalla LLP, replies to the Counterclaims of Defendants Fashion Angels Enterprises, Inc. (“Fashion Angels”) and Mark Miller (“Miller”) (collectively, “Defendants”), dated March 21, 2018 (the “Counterclaims”), upon information and belief, as follows:

1. Plaintiff denies having knowledge and information sufficient to form a belief as to the allegations contained in Paragraph 1 of the Counterclaims.
2. Plaintiff admits the allegations contained in Paragraph 2 of the Counterclaims.
3. Plaintiff admits that the Counterclaims contain the claims referenced in Paragraph 3 of the Counterclaims and otherwise denies the allegations contained in Paragraph 3 of the Counterclaims.
4. Paragraph 4 of the Counterclaims calls for conclusions of law to which no response is required.
5. Paragraph 5 of the Counterclaims calls for conclusions of law to which no response is required.

6. Plaintiff admits the allegations contained in Paragraph 6 of the Counterclaims.

7. Plaintiff refers to the agreement referenced in Paragraph 7 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

8. Plaintiff denies the allegations contained in Paragraph 8 of the Counterclaims.

9. Plaintiff refers to the agreement referenced in Paragraph 9 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

10. Plaintiff refers to the email referenced in Paragraph 10 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

11. Plaintiff denies the allegations contained in Paragraph 11 of the Counterclaims.

12. Plaintiff denies the allegations contained in Paragraph 12 of the Counterclaims.

13. Plaintiff denies the allegations contained in Paragraph 13 of the Counterclaims..

14. Plaintiff denies having knowledge and information sufficient to form a belief as to the allegations contained in Paragraph 14 of the Counterclaims.

15. Plaintiff denies having knowledge and information sufficient to form a belief as to the allegations contained in Paragraph 15 of the Counterclaims.

16. Plaintiff denies having knowledge and information sufficient to form a belief as to the allegations contained in Paragraph 16 of the Counterclaims.

17. Plaintiff denies the allegations contained in Paragraph 17 of the Counterclaims.

18. Plaintiff refers to the emails referenced in Paragraph 18 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

19. Plaintiff refers to the emails referenced in Paragraph 19 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

20. Plaintiff refers to the emails referenced in Paragraph 20 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

21. Plaintiff refers to the document referenced in Paragraph 21 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

22. Plaintiff refers to the emails referenced in Paragraph 22 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

23. Plaintiff refers to the emails referenced in Paragraph 23 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

24. Plaintiff denies the allegations contained in Paragraph 24 of the Counterclaims.

25. Plaintiff denies the allegations contained in Paragraph 25 of the Counterclaims.

26. Plaintiff denies the allegations contained in Paragraph 26 of the Counterclaims.

27. Plaintiff denies and otherwise responds to each and every allegation incorporated into Paragraph 27 of the Counterclaims, with the same force and effect as if set forth herein at length.

28. Plaintiff denies the allegations contained in Paragraph 28 of the Counterclaims.

29. Paragraph 29 of the Counterclaims contains a conclusion of law, to which no response is required. To the extent a response is required, Plaintiff denies the allegations contained in Paragraph 29 of the Counterclaims.

30. Plaintiff refers to the agreement and emails referenced in Paragraph 30 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

31. Plaintiff denies the allegations contained in Paragraph 31 of the Counterclaims.

32. Plaintiff denies the allegations contained in Paragraph 32 of the Counterclaims.

33. Plaintiff denies the allegations contained in Paragraph 33 of the Counterclaims.

34. Plaintiff denies the allegations contained in Paragraph 34 of the Counterclaims.

35. Plaintiff denies the allegations contained in Paragraph 35 of the Counterclaims.

36. Plaintiff denies and otherwise responds to each and every allegation incorporated into Paragraph 36 of the Counterclaims, with the same force and effect as if set forth herein at length.

37. Plaintiff denies having knowledge and information sufficient to form a belief as to the allegations contained in Paragraph 37 of the Counterclaims.

38. Plaintiff denies the allegations contained in Paragraph 38 of the Counterclaims.

39. Plaintiff denies the allegations contained in Paragraph 39 of the Counterclaims.

40. Plaintiff denies the allegations contained in Paragraph 40 of the Counterclaims.

41. Plaintiff denies the allegations contained in Paragraph 41 of the Counterclaims.

42. Plaintiff denies the allegations contained in Paragraph 42 of the Counterclaims.

43. Plaintiff denies the allegations contained in Paragraph 43 of the Counterclaims.

44. Plaintiff denies and otherwise responds to each and every allegation incorporated into Paragraph 44 of the Counterclaims, with the same force and effect as if set forth herein at length.

45. Plaintiff refers to the agreement referenced in Paragraph 45 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims. Additionally, Paragraph 45 of the Counterclaims contains a conclusion of law, to which no response is required.

46. Paragraph 46 of the Counterclaims contains a conclusion of law, to which no response is required. To the extent a response is required, Plaintiff refers to the agreement referenced in Paragraph 45 of the Counterclaims for the true and complete contents thereof and otherwise denies the allegations contained in this paragraph of the Counterclaims.

47. Plaintiff denies the allegations contained in Paragraph 47 of the Counterclaims.

48. Plaintiff denies the allegations contained in Paragraph 48 of the Counterclaims.

49. Paragraph 49 of the Counterclaims calls for a conclusion of law, to which no response is required. To the extent a response is required, Plaintiff denies the allegations contained in this paragraph of the Counterclaims.

50. Plaintiff denies each and every allegation set forth in the “WHEREFORE” clauses in the Counterclaims and specifically denies that Defendants are entitled to any relief whatsoever.

51. Plaintiff denies each and every other allegation contained in the Counterclaims not expressly admitted in this Reply.

FIRST AFFIRMATIVE DEFENSE

Defendants fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred based on the express terms of the contract that Defendants are seeking to enforce.

THIRD AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred based on Defendants' failure to perform and Defendants' breach of the Agreement, as set forth in Plaintiff's Second Amended Complaint, filed on March 22, 2018 (the "SAC").

FOURTH AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred and, in the alternative, offset by Defendants' breach of the NYLL, as set forth in the SAC.

FIFTH AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred by Defendants' misrepresentations, fraud, and/or unclean hands as set forth in the SAC.

SIXTH AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred by the doctrines of estoppel, waiver, release, ratification, discharge and laches.

SEVENTH AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred because Defendants consented to, authorized, approved, acquiesced to, and/or ratified the actions about which Defendants now complain.

EIGHTH AFFIRMATIVE DEFENSE

Defendants' counterclaims for forfeiture of compensation pursuant to the Faithless Servant Doctrine are barred because the conduct complained of does not amount to a persistent pattern of disloyalty.

NINTH AFFIRMATIVE DEFENSE

Defendants' counterclaims are barred by the parol evidence rule.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has not caused Defendants any damages.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants have failed to mitigate damages, if any.

TWELFTH AFFIRMATIVE DEFENSE

Defendants' claim for tortious interference is barred, because Defendants have not pleaded independent criminal or tortious conduct.

RESERVATION OF RIGHTS

Plaintiff-Counterclaim Defendant hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its Reply to assert such additional defenses.

WHEREFORE, Plaintiff hereby requests that the Court grant it the following relief:

- (i) dismiss Defendants' Counterclaims in their entirety with prejudice;
- (ii) award Plaintiff its costs and disbursements incurred in connection with this Reply;
- (iii) award Plaintiff attorneys' fees to the full extent permitted by law; and
- (iv) grant Plaintiff such other and further relief as the Court may deem just and proper.

Dated: New York, New York
April 10, 2018

/s/Adam S. Katz
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